

All you wanted to know about NBFCs (Updated as on September 15, 2016)

A. Definitions

1. What is a Non-Banking Financial Company (NBFC)?

A Non-Banking Financial Company (NBFC) is a company registered under the Companies Act, 1956 engaged in the business of loans and advances, acquisition of shares/stocks/bonds/debentures/securities issued by Government or local authority or other marketable securities of a like nature, leasing, hire-purchase, insurance business, chit business but does not include any institution whose principal business is that of agriculture activity, industrial activity, purchase or sale of any goods (other than securities) or providing any services and sale/purchase/construction of immovable property. A non-banking institution which is a company and has principal business of receiving deposits under any scheme or arrangement in one lump sum or in installments by way of contributions or in any other manner, is also a non-banking financial company (Residuary non-banking company).

2. What does conducting financial activity as “principal business” mean?

Financial activity as principal business is when a company's financial assets constitute more than 50 per cent of the total assets and income from financial assets constitute more than 50 per cent of the gross income. A company which fulfils both these criteria will be registered as NBFC by RBI. The term 'principal business' is not defined by the Reserve Bank of India Act. The Reserve Bank has defined it so as to ensure that only companies predominantly engaged in financial activity get registered with it and are regulated and supervised by it. Hence if there are companies engaged in agricultural operations, industrial activity, purchase and sale of goods, providing services or purchase, sale or construction of immovable property as their principal business and are doing some financial business in a small way, they will not be regulated by the Reserve Bank. Interestingly, this test is popularly known as 50-50 test and is applied to determine whether or not a company is into financial business.

3. NBFCs are doing functions similar to banks. What is difference between banks & NBFCs?

NBFCs lend and make investments and hence their activities are akin to that of banks; however there are a few differences as given below:

- i. NBFC cannot accept demand deposits;
- ii. NBFCs do not form part of the payment and settlement system and cannot issue cheques drawn on itself;
- iii. deposit insurance facility of Deposit Insurance and Credit Guarantee Corporation is not available to depositors of NBFCs, unlike in case of banks.

4. Is it necessary that every NBFC should be registered with RBI?

In terms of Section 45-IA of the RBI Act, 1934, no Non-banking Financial company can commence or carry on business of a non-banking financial institution without a) obtaining a certificate of registration from the Bank and without having a Net Owned Funds of ₹ 25 lakhs (₹ Two crore since April 1999). However, in terms of the powers given to the Bank, to obviate dual regulation, certain categories of NBFCs which are regulated by other regulators are exempted from the requirement of registration with RBI viz. Venture Capital Fund/Merchant Banking companies/Stock broking companies registered with SEBI, Insurance Company holding a valid Certificate of Registration issued by IRDA, Nidhi companies as notified under Section 620A of the Companies Act, 1956, Chit companies as defined in clause (b) of Section 2 of the Chit Funds Act, 1982, Housing Finance Companies regulated by National Housing Bank, Stock Exchange or a Mutual Benefit company.

5. What are the requirements for registration with RBI?

A company incorporated under the Companies Act, 1956 and desirous of commencing business of non-banking financial institution as defined under Section 45 I(a) of the RBI Act, 1934 should comply with the following:

- i. it should be a company registered under Section 3 of the companies Act, 1956
- ii. It should have a minimum net owned fund of ₹ 200 lakh. (The minimum net owned fund (NOF) required for specialized NBFCs like NBFC-MFIs, NBFC-Factors, CICs is indicated separately in the FAQs on specialized NBFCs)

6. What is the procedure for application to the Reserve Bank for Registration?

The applicant company is required to apply online and submit a physical copy of the application along with the necessary documents to the Regional Office of the Reserve Bank of India. The application can be submitted online by accessing RBI's secured website <https://cosmos.rbi.org.in>. At this stage, the applicant company will not need to log on to the COSMOS application and hence user ids are not required. The company can click on "CLICK" for Company Registration on the login page of the COSMOS Application. A window showing the Excel application form available for download would be displayed. The company can then download suitable application form (i.e. NBFC or SC/RC) from the above website, key in the data and upload the application form. The company may note to indicate the correct name of the Regional Office in the field "C-8" of the "Annex-I identification Particulars" in the Excel application form. The company would then get a Company Application Reference Number for the CoR application filed on-line. Thereafter, the company has to submit the hard copy of the application form (indicating the online Company Application Reference Number, along with the supporting documents, to the concerned Regional Office. The company can then check the status of the application from the above mentioned secure address, by keying in the acknowledgement number.

7. What are the essential documents required to be submitted along with the application form to the Regional Office of the Reserve Bank?

The application form and an indicative checklist of the documents required to be submitted along with the application is available at www.rbi.org.in → Site Map → NBFC List → [Forms/ Returns](#).

8. What are systemically important NBFCs?

NBFCs whose asset size is of ₹ 500 cr or more as per last audited balance sheet are considered as systemically important NBFCs. The rationale for such classification is that the activities of such NBFCs will have a bearing on the financial stability of the overall economy.

B. Entities Regulated by RBI and applicable regulations

9. Does the Reserve Bank regulate all financial companies?

No. Housing Finance Companies, Merchant Banking Companies, Stock Exchanges, Companies engaged in the business of stock-broking/sub-broking, Venture Capital Fund Companies, Nidhi Companies, Insurance companies and Chit Fund Companies are NBFCs but they have been exempted from the requirement of registration under Section 45-IA of the RBI Act, 1934 subject to certain conditions.

Housing Finance Companies are regulated by National Housing Bank, Merchant Banker/Venture Capital Fund Company/stock-exchanges/stock brokers/sub-brokers are regulated by Securities and Exchange Board of India, and Insurance companies are regulated by Insurance Regulatory and Development Authority. Similarly, Chit Fund Companies are regulated by the respective State Governments and Nidhi Companies are regulated by Ministry of Corporate Affairs, Government of India. Companies that do financial business but are regulated by other regulators are given specific exemption by the Reserve Bank from its regulatory requirements for avoiding duality of regulation.

It may also be mentioned that Mortgage Guarantee Companies have been notified as Non-Banking Financial Companies under Section 45 I(f)(iii) of the RBI Act, 1934. Core Investment Companies with asset size of less than ₹ 100 crore, and those with asset size of ₹ 100 crore and above but not accessing public funds are exempted from registration with the RBI.

10. What are the different types/categories of NBFCs registered with RBI?

NBFCs are categorized a) in terms of the type of liabilities into Deposit and Non-Deposit accepting NBFCs, b) non deposit taking NBFCs by their size into systemically important and other non-deposit holding companies (NBFC-NDSI and NBFC-ND) and c) by the kind of activity they conduct. Within this broad categorization the different types of NBFCs are as follows:

I. Asset Finance Company (AFC) : An AFC is a company which is a financial institution carrying on as its principal business the financing of physical assets supporting productive/economic

activity, such as automobiles, tractors, lathe machines, generator sets, earth moving and material handling equipments, moving on own power and general purpose industrial machines. Principal business for this purpose is defined as aggregate of financing real/physical assets supporting economic activity and income arising therefrom is not less than 60% of its total assets and total income respectively.

II. Investment Company (IC) : IC means any company which is a financial institution carrying on as its principal business the acquisition of securities,

III. Loan Company (LC): LC means any company which is a financial institution carrying on as its principal business the providing of finance whether by making loans or advances or otherwise for any activity other than its own but does not include an Asset Finance Company.

IV. Infrastructure Finance Company (IFC): IFC is a non-banking finance company a) which deploys at least 75 per cent of its total assets in infrastructure loans, b) has a minimum Net Owned Funds of ₹ 300 crore, c) has a minimum credit rating of 'A 'or equivalent d) and a CRAR of 15%.

V. Systemically Important Core Investment Company (CIC-ND-SI): CIC-ND-SI is an NBFC carrying on the business of acquisition of shares and securities which satisfies the following conditions:-

(a) it holds not less than 90% of its Total Assets in the form of investment in equity shares, preference shares, debt or loans in group companies;

(b) its investments in the equity shares (including instruments compulsorily convertible into equity shares within a period not exceeding 10 years from the date of issue) in group companies constitutes not less than 60% of its Total Assets;

(c) it does not trade in its investments in shares, debt or loans in group companies except through block sale for the purpose of dilution or disinvestment;

(d) it does not carry on any other financial activity referred to in Section 45I(c) and 45I(f) of the RBI act, 1934 except investment in bank deposits, money market instruments, government securities, loans to and investments in debt issuances of group companies or guarantees issued on behalf of group companies.

(e) Its asset size is ₹ 100 crore or above and

(f) It accepts public funds

VI. Infrastructure Debt Fund: Non- Banking Financial Company (IDF-NBFC) : IDF-NBFC is a company registered as NBFC to facilitate the flow of long term debt into infrastructure projects. IDF-NBFC raise resources through issue of Rupee or Dollar denominated bonds of minimum 5 year maturity. Only Infrastructure Finance Companies (IFC) can sponsor IDF-NBFCs.

VII. Non-Banking Financial Company - Micro Finance Institution (NBFC-MFI): NBFC-MFI is a non-deposit taking NBFC having not less than 85% of its assets in the nature of qualifying assets which satisfy the following criteria:

- a. loan disbursed by an NBFC-MFI to a borrower with a rural household annual income not exceeding ₹ 1,00,000 or urban and semi-urban household income not exceeding ₹ 1,60,000;
- b. loan amount does not exceed ₹ 50,000 in the first cycle and ₹ 1,00,000 in subsequent cycles;
- c. total indebtedness of the borrower does not exceed ₹ 1,00,000;
- d. tenure of the loan not to be less than 24 months for loan amount in excess of ₹ 15,000 with prepayment without penalty;
- e. loan to be extended without collateral;
- f. aggregate amount of loans, given for income generation, is not less than 50 per cent of the total loans given by the MFIs;
- g. loan is repayable on weekly, fortnightly or monthly instalments at the choice of the borrower

VIII. Non-Banking Financial Company – Factors (NBFC-Factors): NBFC-Factor is a non-deposit taking NBFC engaged in the principal business of factoring. The financial assets in the factoring business should constitute at least 50 percent of its total assets and its income derived from factoring business should not be less than 50 percent of its gross income.

IX. Mortgage Guarantee Companies (MGC) - MGC are financial institutions for which at least 90% of the business turnover is mortgage guarantee business or at least 90% of the gross income is from mortgage guarantee business and net owned fund is ₹ 100 crore.

X. NBFC- Non-Operative Financial Holding Company (NOFHC) is financial institution through which promoter / promoter groups will be permitted to set up a new bank .It's a wholly-owned Non-Operative Financial Holding Company (NOFHC) which will hold the bank as well as all other financial services companies regulated by RBI or other financial sector regulators, to the extent permissible under the applicable regulatory prescriptions.

11. What are the powers of the Reserve Bank with regard to 'Non-Bank Financial Companies', that is, companies that meet the 50-50 Principal Business Criteria?

The Reserve Bank has been given the powers under the RBI Act 1934 to register, lay down policy, issue directions, inspect, regulate, supervise and exercise surveillance over NBFCs that meet the 50-50 criteria of principal business. The Reserve Bank can penalize NBFCs for violating the provisions of the RBI Act or the directions or orders issued by RBI under RBI Act. The penal action can also result in RBI cancelling the Certificate of Registration issued to the

NBFC, or prohibiting them from accepting deposits and alienating their assets or filing a winding up petition.

12. What action can be taken against persons/financial companies making false claim of being regulated by the Reserve Bank?

It is illegal for any financial entity or unincorporated body to make a false claim of being regulated by the Reserve Bank to mislead the public to collect deposits and is liable for penal action under the Indian Penal Code. Information in this regard may be forwarded to the nearest office of the Reserve Bank and the Police.

13. What action is taken if financial companies which are lending or making investments as their principal business do not obtain a Certificate of Registration from the Reserve Bank?

If companies that are required to be registered with the Reserve Bank as NBFCs, are found to be conducting non-banking financial activity, such as, lending, investment or deposit acceptance as their principal business, without seeking registration, the Reserve Bank can impose penalty or fine on them or can even prosecute them in a court of law. If members of public come across any entity which does non-banking financial activity but does not figure in the list of authorized NBFC on RBI website, they should inform the nearest Regional Office of the Reserve Bank, for appropriate action to be taken for contravention of the provisions of the RBI Act, 1934.

14. Where can one find list of Registered NBFCs and instructions issued to NBFCs?

The list of registered NBFCs is available on the web site of Reserve Bank of India and can be viewed at www.rbi.org.in → Sitemap → [NBFC List](#). The instructions issued to NBFCs from time to time are also hosted at www.rbi.org.in → Notifications → Master Circulars → [Non-banking](#), besides, being issued through Official Gazette notifications and press releases.

15. What are the regulations applicable on non-deposit accepting NBFCs with asset size of less than ₹ 500 crore?

The regulation on non-deposit accepting NBFCs with asset size of less than ₹ 500 crore would be as under:

(i) They shall not be subjected to any regulation either prudential or conduct of business regulations viz., Fair Practices Code (FPC), KYC, etc., if they have not accessed any public funds and do not have a customer interface.

(ii) Those having customer interface will be subjected only to conduct of business regulations including FPC, KYC etc., if they are not accessing public funds.

(iii) Those accepting public funds will be subjected to limited prudential regulations but not conduct of business regulations if they have no customer interface.

(iv) Where both public funds are accepted and customer interface exist, such companies will be subjected both to limited prudential regulations and conduct of business regulations.

16. What does the term public funds include? Is it the same as public deposits?

Public funds are not the same as public deposits. Public funds include public deposits, inter-corporate deposits, bank finance and all funds received whether directly or indirectly from outside sources such as funds raised by issue of Commercial Papers, debentures etc. However, even though public funds include public deposits in the general course, it may be noted that CICs/CICs-ND-SI cannot accept public deposits.

Further, indirect receipt of public funds means funds received not directly but through associates and group entities which have access to public funds.

17. What are the various prudential regulations applicable to NBFCs?

The Bank has issued detailed directions on prudential norms, vide Non-Banking Financial (Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007, Non-Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015 and Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015. Applicable regulations vary based on the deposit acceptance or systemic importance of the NBFC.

The directions inter alia, prescribe guidelines on income recognition, asset classification and provisioning requirements applicable to NBFCs, exposure norms, disclosures in the balance sheet, requirement of capital adequacy, restrictions on investments in land and building and unquoted shares, loan to value (LTV) ratio for NBFCs predominantly engaged in business of lending against gold jewellery, besides others. Deposit accepting NBFCs have also to comply with the statutory liquidity requirements. Details of the prudential regulations applicable to NBFCs holding deposits and those not holding deposits is available in the section 'Regulation – Non-Banking – Notifications - [Master Circulars](#)' in the RBI website.

18. Please explain the terms 'owned fund' and 'net owned fund' in relation to NBFCs?

'Owned Fund' means aggregate of the paid-up equity capital, preference shares which are compulsorily convertible into equity, free reserves, balance in share premium account and capital reserves representing surplus arising out of sale proceeds of asset, excluding reserves created by revaluation of asset, after deducting therefrom accumulated balance of loss, deferred revenue expenditure and other intangible assets. 'Net Owned Fund' is the amount as arrived at above, minus the amount of investments of such company in shares of its subsidiaries, companies in the same group and all other NBFCs and the book value of debentures, bonds, outstanding loans and

advances including hire purchase and lease finance made to and deposits with subsidiaries and companies in the same group, to the extent it exceeds 10% of the owned fund.

19. What are the responsibilities of the NBFCs registered with Reserve Bank, with regard to submission on compliances and other information?

A. Returns to be submitted by deposit taking NBFCs

NBS-1 Quarterly Returns on deposits in First Schedule.

NBS-2 Quarterly return on Prudential Norms is required to be submitted by NBFC accepting public deposits.

NBS-3 Quarterly return on Liquid Assets by deposit taking NBFC.

NBS-4 Annual return of critical parameters by a rejected company holding public deposits. (NBS-5 stands withdrawn as submission of NBS 1 has been made quarterly.)

NBS-6 Monthly return on exposure to capital market by deposit taking NBFC with total assets of ₹ 100 crore and above.

Half-yearly ALM return by NBFC holding public deposits of more than ₹ 20 crore or asset size of more than ₹ 100 crore

Audited Balance sheet and Auditor's Report by NBFC accepting public deposits.

Branch Info Return.

B. Returns to be submitted by NBFCs-ND-SI

NBS-7 A Quarterly statement of capital funds, risk weighted assets, risk asset ratio etc., for NBFC-ND-SI.

Monthly Return on Important Financial Parameters of NBFCs-ND-SI.

ALM

returns:

(i) Statement of short term dynamic liquidity in format ALM [NBS-ALM1] -Monthly,

(ii) Statement of structural liquidity in format ALM [NBS-ALM2] Half yearly,

(iii) Statement of Interest Rate Sensitivity in format ALM -[NBS-ALM3], Half yearly

Branch Info return

C. Quarterly return on important financial parameters of non deposit taking NBFCs having assets of more than ₹ 50 crore and above but less than ₹ 100 crore

Basic information like name of the company, address, NOF, profit / loss during the last three years has to be submitted quarterly by non-deposit taking NBFCs with asset size between ₹ 50 crore and ₹ 100 crore.

There are other generic reports to be submitted by all NBFCs as elaborated in Master Circular on Returns to be submitted by NBFCs as available on www.rbi.org.in → Notifications → Master Circulars → [Non-banking](#) and [Circular DNBS \(IT\) CC.No.02/24.01.191/2015-16 dated July 9, 2015](#) as available on www.rbi.org.in → Notifications.

20. Whether the circular on Lending against shares dated August 21, 2014 is applicable to existing loans also?

The Circular is applicable from the date of the circular and therefore the Circular shall not apply on those transactions which have been entered into prior to the date of the Circular. However, the guidelines will be applicable in case of roll-over/ renewal of loans. Guidelines will not apply to transactions where documents have been executed prior to the date of the circular and disbursement is pending.

21. Will the circular on Lending against shares be applicable on restructured accounts?

No. the Circular will not be applicable on restructured accounts

22. Will the Circular on Lending against shares be applicable on those loans where the primary security is not shares/ units of mutual funds?

Loans which are against the collateral of multiple securities and it is specifically agreed to in the agreement that primary security would be something other than shares/ units of mutual funds, LTV would not be applicable. However, reporting requirements shall remain. In cases where such differentiation is not made (thereby NBFCs can off-load shares at the instance of a default), LTV would be applicable.

23. Whether LTV for loans issued against the collateral of shares is to be computed at scrip level or at portfolio level?

LTV would be computed at portfolio level.

24. Whether PoA/ Non-Disposal undertaking structure by whatever name called is covered under the Circular on Lending against shares?

Yes, the Circular would be applicable and the type of encumbrance created is immaterial.

25. Does the definition of “companies in a group” as given in Systemically Important Non-Banking Financial (non-deposit accepting or holding) companies Prudential Norms Directions, 2015 apply in respect of concentration of credit/ investment norms.

No, the definition of “companies is a group” is only for the purpose of determining the applicability of prudential norms on multiple NBFCs in a group.

26. Whether acquisition/ transfer of shareholding of 26 per cent or more of the paid up equity capital of an NBFC within the same group i.e. intra group transfers require prior approval of the Bank?

Yes, prior approval would be required in all cases of acquisition/ transfer of shareholding of 26 per cent or more of the paid up equity capital of an NBFC. In case of intra-group transfers, NBFCs shall submit an application, on the company letter head, for obtaining prior approval of the Bank. Based on the application of the NBFC, it would be decided, on a case to case basis, whether the NBFC requires to submit the documents as prescribed at para 3 of DNBR (PD) CC.No. 065/03.10.001/2015-16 dated July 9, 2015 for processing the application of the company. In cases where approval is granted without the documents, the NBFC would be required to submit the same after the process of transfer is complete.

27. NBFCs are charging high interest rates from their borrowers. Is there any ceiling on interest rate charged by the NBFCs to their borrowers?

Reserve Bank of India has deregulated interest rates to be charged to borrowers by financial institutions (other than NBFC- Micro Finance Institution). The rate of interest to be charged by the company is governed by the terms and conditions of the loan agreement entered into between the borrower and the NBFCs. However, the NBFCs have to be transparent and the rate of interest and manner of arriving at the rate of interest to different categories of borrowers should be disclosed to the borrower or customer in the application form and communicated explicitly in the sanction letter etc.

28. RBI permits NBFCs to hedge their exposure through dealing in IRFs. Currently, IRFs are on single stock 10 yr 8.40% 2024 security. The Composition of Balance Sheet is mix of fixed/ floating interest rate and different credit profile. Whether 10 yr single security can be used for hedging 2-3 yr liability and asset (Duration adjusted) or can be used for investment in other long tenor securities or corporate bonds. Alternatively, whether IRFs can be used holistically for hedging assets and liabilities in dynamic interest rate scenarios within total Balance Sheet amount and within hedging definition?

IRF may be used to hedge interest rate risk associated with single asset/ liability or a group of assets/ liabilities. Hence, NBFCs are permitted to use duration based hedging for managing interest rate risk.

29. Whether NBFCs as trading member can participate in the IRF market only for hedging or can also take trading position?

As per extant guidelines NBFCs with asset size of ₹ 1,000 cr and above are permitted to participate in IRF as trading members. While, trading members of stock exchanges are permitted to execute trades on their own account as well as on account of their clients, banks and PDs have been allowed to deal in IRF for both hedging and trading on own account and not on client's account. Similarly, NBFCs as trading members are permitted to execute their proprietary trades and not to undertake transactions on behalf of clients.

C. Residuary Non-Banking Companies (RNBCs)

30. What is a Residuary Non-Banking Company (RNBC)? In what way it is different from other NBFCs?

Residuary Non-Banking Company is a class of NBFC which is a company and has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner and not being Investment, Asset Financing, Loan Company. These companies are required to maintain investments as per directions of RBI, in addition to liquid assets. The functioning of these companies is different from those of NBFCs in terms of method of mobilization of deposits and requirement of deployment of depositors' funds as per Directions. Besides, Prudential Norms Directions are applicable to these companies also.

31. We understand that there is no ceiling on raising of deposits by RNBCs, then how safe is deposit with them?

It is true that there is no ceiling on raising of deposits by RNBCs. However, every RNBC has to ensure that the amounts deposited with it are fully invested in approved investments. In other words, in order to secure the interests of depositor, such companies are required to invest 100 per cent of their deposit liability into highly liquid and secure instruments, namely, Central/State Government securities, fixed deposits with scheduled commercial banks (SCB), Certificate of Deposits of SCB/FIs, units of Mutual Funds, etc.

32. Can RNBC forfeit deposit if deposit instalments are not paid regularly or discontinued?

No. Residuary Non-Banking Company cannot forfeit any amount deposited by the depositor, or any interest, premium, bonus or other advantage accrued thereon.

33. What is the rate of interest that an RNBC must pay on deposits and what should be maturity period of deposits taken by them?

The minimum interest an RNBC should pay on deposits should be 5% (to be compounded annually) on the amount deposited in lump sum or at monthly or longer intervals; and 3.5% (to be compounded annually) on the amount deposited under daily deposit scheme. Interest here includes premium, bonus or any other advantage, that an RNBC promises to the depositor by way of return. An RNBC can accept deposits for a minimum period of 12 months and maximum period of 84 months from the date of receipt of such deposit. They cannot accept deposits repayable on demand. However, at present, the only RNBCs in existence (Peerless) has been directed by the Reserve Bank to stop collecting deposits, repay the deposits to the depositor and wind up their RNBC business as their business model is inherently unviable.

D. Definition of deposits, Eligible / Ineligible Institutions to accept deposits and Related Matters

34. What is 'deposit' and 'public deposit'? Is it defined anywhere?

The term 'deposit' is defined under Section 45 I(bb) of the RBI Act, 1934. 'Deposit' includes and shall be deemed always to have included any receipt of money by way of deposit or loan or in any other form but does not include:

- i. amount raised by way of share capital, or contributed as capital by partners of a firm;
- ii. amount received from a scheduled bank, a co-operative bank, a banking company, Development bank, State Financial Corporation, IDBI or any other institution specified by RBI;
- iii. amount received in ordinary course of business by way of security deposit, dealership deposit, earnest money, advance against orders for goods, properties or services;
- iv. amount received by a registered money lender other than a body corporate;
- v. amount received by way of subscriptions in respect of a 'Chit'.

Paragraph 2(1)(xii) of the Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998 defines a ' public deposit' as a 'deposit' as defined under Section 45 I(bb) of the RBI Act, 1934 and further excludes the following:

- a. amount received from the Central/ State Government or any other source where repayment is guaranteed by Central/ State Government or any amount received from local authority or foreign government or any foreign citizen/ authority/ person;
- b. any amount received from financial institutions specified by RBI for this purpose;
- c. any amount received by a company from any other company;
- d. amount received by way of subscriptions to shares, stock, bonds or debentures pending allotment or by way of calls in advance if such amount is not repayable to the members under the articles of association of the company;
- e. amount received from directors of a company or from its shareholders by private company or by a private company which has become a public company;
- f. amount raised by issue of bonds or debentures secured by mortgage of any immovable property or other asset of the company subject to conditions;
- fa. any amount raised by issuance of non-convertible debentures with a maturity more than one year and having the minimum subscription per investor at ₹ 1 crore and above, provided it is in accordance with the guidelines issued by the Bank.
- g. the amount brought in by the promoters by way of unsecured loan;
- h. amount received from a mutual fund;

- i. any amount received as hybrid debt or subordinated debt;
- j. amount received from a relative of the director of an NBFC;
- k. any amount received by issuance of Commercial Paper.
- l. any amount received by a systemically important non-deposit taking non-banking financial company by issuance of 'perpetual debt instruments'
- m. any amount raised by the issue of infrastructure bonds by an Infrastructure Finance Company

Thus, the directions exclude from the definition of public deposit, amount raised from certain set of informed lenders who can make independent decision.

35. Which entities can legally accept deposits from public?

Banks, including co-operative banks, can accept deposits. Non-bank finance companies, which have been issued Certificate of Registration by RBI with a specific licence to accept deposits, are entitled to accept public deposit. In other words, not all NBFCs registered with the Reserve Bank are entitled to accept deposits but only those that hold a deposit accepting Certificate of Registration can accept deposits. They can, however, accept deposits, only to the extent permissible. Housing Finance Companies, which are again specifically authorized to collect deposits and companies authorized by Ministry of Corporate Affairs under the Companies Acceptance of Deposits Rules framed by Central Government under the Companies Act can also accept deposits also upto a certain limit. Cooperative Credit Societies can accept deposits from their members but not from the general public. The Reserve Bank regulates the deposit acceptance only of banks, cooperative banks and NBFCs.

It is not legally permissible for other entities to accept public deposits. Unincorporated bodies like individuals, partnership firms, and other association of individuals are prohibited from carrying on the business of acceptance of deposits as their principal business. Such unincorporated bodies are prohibited from even accepting deposits if they are carrying on financial business.

36. Can all NBFCs accept deposits? Is there any ceiling on acceptance of Public Deposits? What is the rate of interest and period of deposit which NBFCs can accept?

All NBFCs are not entitled to accept public deposits. Only those NBFCs to which the Bank had given a specific authorisation and have an investment grade rating are allowed to accept/ hold public deposits to a limit of 1.5 times of its Net Owned Funds. All existing unrated AFCs that have been allowed to accept deposits shall have to get themselves rated by March 31, 2016. Those AFCs that do not get an investment grade rating by March 31, 2016, will not be allowed to renew existing or accept fresh deposits thereafter. In the intervening period, i.e. till March 31,

2016, unrated AFCs or those with a sub-investment grade rating can only renew existing deposits on maturity, and not accept fresh deposits, till they obtain an investment grade rating.

However, as a matter of public policy, Reserve Bank has decided that only banks should be allowed to accept public deposits and as such has since 1997 not issued any Certificate of Registration (CoR) to new NBFCs for acceptance of public deposits.

Presently, the maximum rate of interest an NBFC can offer is 12.5%. The interest may be paid or compounded at rests not shorter than monthly rests. The NBFCs are allowed to accept/renew public deposits for a minimum period of 12 months and maximum period of 60 months. They cannot accept deposits repayable on demand.

37. In respect of companies which do not fulfill the 50-50 criteria but are accepting deposits – do they come under RBI purview?

A company which does not have financial assets which is more than 50% of its total assets and does not derive at least 50% of its gross income from such assets is not an NBFC. Its principal business would be non-financial activity like agricultural operations, industrial activity, purchase or sale of goods or purchase/construction of immoveable property, and will be a non-banking non-financial company. Acceptance of deposits by a Non-Banking Non-Financial Company are governed by the rules and regulations issued by the Ministry of Corporate Affairs.

38. Why is the RBI so restrictive in allowing NBFCs to raise public deposits?

The Reserve Bank's overarching concern while supervising any financial entity is protection of depositors' interest. Depositors place deposit with any entity on trust unlike an investor who invests in the shares of a company with the intention of sharing the risk as well as return with the promoters. Protection of depositors' interest thus is supreme in financial regulation. Banks are the most regulated financial entities. The Deposit Insurance and Credit Guarantee Corporation pays insurance on deposits up to ₹ One lakh in case a bank failed.

39. Which are the NBFCs specifically authorized by RBI to accept deposits?

The Reserve Bank publishes the list of NBFCs that hold a valid Certificate of Registration for accepting deposits on its website: www.rbi.org.in → Sitemap → NBFC List → [List of NBFCs Permitted to Accept Deposits](#). At times, some companies are temporarily prohibited from accepting public deposits. The Reserve Bank publishes the list of NBFCs temporarily prohibited also on its website. The Reserve Bank keeps both these lists updated. Members of the public are advised to check both these lists before placing deposits with NBFCs.

40. Whether NBFCs can accept deposits from NRIs?

Effective from April 24, 2004, NBFCs cannot accept deposits from NRIs except deposits by debit to NRO account of NRI provided such amount does not represent inward remittance or transfer from NRE/FCNR (B) account. However, the existing NRI deposits can be renewed.

41. Can a Co-operative Credit Society accept deposits from the public?

No. Co-operative Credit Societies cannot accept deposits from general public. They can accept deposits only from their members within the limit specified in their bye laws.

42. Can a Salary Earners' Society accept deposits from the public?

No. These societies are formed for salaried employees and hence they can accept deposit only from their own members and not from general public.

43. Is nomination facility available to the Depositors of NBFCs?

Yes, nomination facility is available to the depositors of NBFCs. The Rules for nomination facility are provided for in section 45QB of the Reserve Bank of India Act, 1934. Non-Banking Financial Companies have been advised to adopt the Banking Companies (Nomination) Rules, 1985 made under Section 45ZA of the Banking Regulation Act, 1949. Accordingly, depositor/s of NBFCs are permitted to nominate one person to whom the NBFC can return the deposit in the event of the death of the depositor/s. NBFCs are advised to accept nominations made by the depositors in the form similar to one specified under the said rules, viz Form DA 1 for the purpose of nomination, and Form DA2 and DA3 for cancellation of nomination and change of nomination respectively.

44. How does the Reserve Bank come to know about unauthorized acceptance of deposits by companies not registered with it or of NBFCs engaged in lending or investment activities without obtaining the Certificate of Registration from it?

NBFCs that ought to have sought registration from RBI but are functioning without doing so are committing a breach of law. Such companies are liable for action as envisaged under the RBI Act, 1934. To identify such entities, RBI has multiple sources of information. These include market intelligence, complaints received from affected parties, industry sources, and exception reports submitted by statutory auditors in terms of Non-Banking Financial Companies Auditor's Report (Reserve Bank) Directions, 2008. Further, the State Level Co-ordination Committees (SLCC) is convened by RBI in all the States/UTs on quarterly basis. The SLCC is now chaired by the Chief Secretary/ Administrator of the concerned State/UT and has, as its members, apart from the Reserve Bank, the Regional Directorate of the MCA/ ROC, local unit of SEBI, NHB, Registrar of Chits, ICAI, Economic Intelligence Unit of the State Police and officials from Law and Home Ministries of the State Government. As all the relevant financial sector regulators and enforcement agencies participate in the SLCC, it is possible to quickly share the information and agree on an effective course of action to be taken against entities indulging in unauthorized and suspect businesses involving funds mobilization from public.

45. Can Proprietorship/Partnership Concerns associated/not associated with registered NBFCs accept public deposits?

No. Proprietorship and partnership concerns are un-incorporated bodies. Hence they are prohibited under the RBI Act 1934 from accepting public deposits.

46. There are many jewellery shops taking money from the public in instalments. Is this amounting to acceptance of deposits?

It depends on whether the money is received as advance for delivering jewellery at a future date or whether the money is received with a promise to return the same with interest. The money accepted by Jewellery shops in instalments for the purpose of delivering jewellery at the end of the period of contract is not deposit. It will amount to acceptance of deposits if in return for the money received, the jewellery shop promises to return the principal amount along with interest.

47. What action can be taken if such unincorporated entities accept public deposits? What if NBFCs which have not been authorized to accept public deposits use proprietorship/partnership firms floated by their promoters to collect deposits?

Such unincorporated entities, if found accepting public deposits, are liable for criminal action. Further NBFCs are prohibited by RBI from associating with any unincorporated bodies. If NBFCs associate themselves with proprietorship/partnership firms accepting deposits in contravention of RBI Act, they are also liable to be prosecuted under criminal law or under the Protection of Interest of Depositors (in Financial Establishments) Act, if passed by the State Governments.

48. What is the difference between acceptance of money by Chit Funds and acceptance of deposits?

Deposits are defined under the RBI Act 1934 as acceptance of money other than that raised by way of share capital, money received from banks and other financial institutions, money received as security deposit, earnest money and advance against goods or services and subscriptions to chits. All other amounts, received as loan or in any form are treated as deposits. Chit Funds activity involves contributions by members in instalments by way of subscription to the Chit and by rotation each member of the Chit receives the chit amount. The subscriptions are specifically excluded from the definition of deposits and cannot be termed as deposits. While Chit funds may collect subscriptions as above, they are prohibited by RBI from accepting deposits with effect from August 2009.

E. Depositor Protection Issues

49. What are the salient features of NBFC regulations which the depositor may note at the time of investment?

Some of the important regulations relating to acceptance of deposits by NBFCs are as under:

The NBFCs are allowed to accept/renew public deposits for a minimum period of 12 months and maximum period of 60 months. They cannot accept deposits repayable on demand.

NBFCs cannot offer interest rates higher than the ceiling rate prescribed by RBI from time to time. The present ceiling is 12.5 per cent per annum. The interest may be paid or compounded at rests not shorter than monthly rests.

NBFCs cannot offer gifts/incentives or any other additional benefit to the depositors.

NBFCs should have minimum investment grade credit rating.

The deposits with NBFCs are not insured.

The repayment of deposits by NBFCs is not guaranteed by RBI.

Certain mandatory disclosures are to be made about the company in the Application Form issued by the company soliciting deposits.

50. What precautions should a depositor take before placing deposit with an NBFC?

A depositor wanting to place deposit with an NBFC must take the following precautions before placing deposits:

That the NBFC is registered with RBI and specifically authorized by the RBI to accept deposits. A list of deposit taking NBFCs entitled to accept deposits is available at www.rbi.org.in → Sitemap → [NBFC List](#). The depositor should check the list of NBFCs permitted to accept public deposits and also check that it is not appearing in the list of companies prohibited from accepting deposits, which is available at www.rbi.org.in → Sitemap → NBFC List → [NBFCs](#) who have been issued prohibitory orders, winding up petitions filed and legal cases under Chapter IIIB, IIIC and others.

NBFCs have to prominently display the Certificate of Registration (CoR) issued by the Reserve Bank on its site. This certificate should also reflect that the NBFC has been specifically authorized by RBI to accept deposits. Depositors must scrutinize the certificate to ensure that the NBFC is authorized to accept deposits.

The maximum interest rate that an NBFC can pay to a depositor should not exceed 12.5%. The Reserve Bank keeps altering the interest rates depending on the macro-economic environment. The Reserve Bank publishes the change in the interest rates on www.rbi.org.in → Sitemap → NBFC List → [FAQs](#).

The depositor must insist on a proper receipt for every amount of deposit placed with the company. The receipt should be duly signed by an officer authorized by the company and should state the date of the deposit, the name of the depositor, the amount in words and figures, rate of interest payable, maturity date and amount.

In the case of brokers/agents etc collecting public deposits on behalf of NBFCs, the depositors should satisfy themselves that the brokers/agents are duly authorized by the NBFC.

The depositor must bear in mind that public deposits are unsecured and Deposit Insurance facility is not available to depositors of NBFCs.

The Reserve Bank of India does not accept any responsibility or guarantee about the present position as to the financial soundness of the company or for the correctness of any of the statements or representations made or opinions expressed by the company and for repayment of deposits/discharge of the liabilities by the company.

51. Does RBI guarantee the repayment of the deposits collected by NBFCs?

No. The Reserve Bank does not guarantee repayment of deposits by NBFCs even though they may be authorized to collect deposits. As such, investors and depositors should take informed decisions while placing deposit with an NBFC.

52. In case an NBFC defaults in repayment of deposit what course of action can be taken by depositors?

If an NBFC defaults in repayment of deposit, the depositor can approach Company Law Board or Consumer Forum or file a civil suit in a court of law to recover the deposits. NBFCs are also advised to follow a grievance redress procedure as indicated in reply to question 57 below. Further, at the level of the State Government, the State Legislations on Protection of Interest of Depositors (in Financial Establishments) empowers the State Governments to take action even before the default takes place or complaints are received from depositors. If there is perpetration of an offence and if the intention is to defraud, the State Government can even attach properties.

53. What is the role of Company Law Board in protecting the interest of depositors? How can one approach it?

When an NBFC fails to repay any deposit or part thereof in accordance with the terms and conditions of such deposit, the Company Law Board (CLB) either on its own motion or on an application from the depositor, directs by order the Non-Banking Financial Company to make repayment of such deposit or part thereof forthwith or within such time and subject to such conditions as may be specified in the order. After making the payment, the company will need to file the compliance with the local office of the Reserve Bank of India.

As explained above, the depositor can approach CLB by mailing an application in prescribed form to the appropriate bench of the Company Law Board according to its territorial jurisdiction along with the prescribed fee.

54. Can you give the addresses of the various benches of the Company Law Board (CLB) indicating their respective jurisdiction?

The details of addresses and territorial jurisdiction of the bench officers of CLB are as under:

S. No.	Benches	Jurisdiction	Telephone No.
1.	Company Law Board Principal Bench Paryavaran Bhawan B-Block, 3rd Floor C.G.O. Complex Lodhi Road, New Delhi – 110 003	All States & Union Territories	011 – 24366126

2.	Company Law Board New Delhi Bench Paryavaran Bhawan B-Block, 3rd Floor C.G.O. Complex Lodhi Road, New Delhi – 110 003	States of Delhi, Haryana, Himachal Pradesh, Jammu & Kashmir, Punjab, Rajasthan, Uttar Pradesh, Uttarakhand and Union Territories of Chandigarh.	011 – 24363671, 011 – 24362324
3.	Company Law Board Kolkata Bench 5, Esplande Row(West) Kolkata – 700 001	States of Arunachal Pradesh, Assam, Bihar, Manipur, Meghalaya, Nagaland, Orissa, Sikkim, Tripura, West Bengal, Jharkhand and Union Territories of Andaman and Nicobar Island and Mizoram.	033 – 22486330
4.	Company Law Board Mumbai Bench N.T.C. House, 2ND Floor, 15 Narottam Morarjee Marg, Ballard Estate, Mumbai – 400 038	States of Goa, Gujarat, Madhya Pradesh, Maharashtra, Chhattisgarh and (Union Territories of Dadra and Nagar Haveli and Damman and Diu)	022 – 22619636
5.	Company Law Board, Chennai Bench Corporate Bhawan (UTI Building), 3rd Floor, No. 29 Rajaji Salari, Chennai – 600001.	States of Andhra Pradesh, Karnataka, Kerala, Tamil Nadu and Union Territories of Pondicherry and Lakshadweep Island.	044 – 25262791

55. We hear that in a number of cases Official Liquidators have been appointed on the defaulting NBFCs. What is the procedure adopted by the Official Liquidator?

An Official Liquidator is appointed by the court after giving the company reasonable opportunity of being heard in a winding up petition. The liquidator performs the duties of winding up of the company and such duties in reference thereto as the court may impose. Where the court has appointed an official liquidator or provisional liquidator, he becomes custodian of the property of the company and runs day-to-day affairs of the company. He has to draw up a statement of affairs of the company in prescribed form containing particulars of assets of the company, its debts and liabilities, names/residences/occupations of its creditors, the debts due to the company and such other information as may be prescribed. The scheme is drawn up by the liquidator and same is put up to the court for approval. The liquidator realizes the assets of the company and

arranges to repay the creditors according to the scheme approved by the court. The liquidator generally inserts advertisement in the newspaper inviting claims from depositors/investors in compliance with court orders. Therefore, the investors/depositors should file the claims within due time as per such notices of the liquidator. The Reserve Bank also provides assistance to the depositors in furnishing addresses of the official liquidator.

56. The Consumer Court plays useful role in attending to depositors problems. Can one approach Consumer Forum, Civil Court, CLB simultaneously?

Yes, a depositor can approach any or all of the redressal authorities i.e consumer forum, court or CLB.

57. Is there an Ombudsman for hearing complaints against NBFCs or Does RBI have any grievance redressal mechanism in place for NBFCs?

No, there is no Ombudsman for hearing complaints against NBFCs. However, in respect of credit card operations of an NBFC, which is a subsidiary of a bank, if a complainant does not get satisfactory response from the NBFC within a maximum period of thirty (30) days from the date of lodging the complaint, the customer will have the option to approach the Office of the concerned Banking Ombudsman for redressal of his grievance/s.

If complaints or grievances against the NBFCs are submitted to the nearest office of the Reserve Bank of India, the same are taken up with the NBFC concerned to facilitate resolution of the grievance/complaint. Further, all NBFCs have in place a Grievance Redressal Officer, whose name and contact details have to be mandatorily displayed in the premises of the NBFCs. The grievance can be taken up with the Grievance Redressal Officer. In case the complainant is not satisfied with the settlement of the complaint by the Grievance Redressal Officer of the NBFC, he/she may approach the nearest office of the Reserve Bank of India with the complaint. The details of the Office of the Reserve Bank has also to be mandatorily displayed in the premises of the NBFC.

58. Companies registered with MCA but not registered with RBI as NBFCs also sometimes default in repayment of deposit/ amounts invested with them? What is the recourse available to the investors in such an event? Does RBI have any role to play in such cases?

Companies registered with MCA but not required to be registered with RBI as NBFC are not under the regulatory domain of RBI. Whenever RBI receives any such complaints about the companies registered with MCA but not registered with RBI as NBFCs, it forwards the complaints to the Registrar of Companies (ROC) of the respective state for any action. The complainants are advised that the complaints relating to irregularities of such companies should be promptly lodged with ROC concerned for initiating corrective action. However, in case it comes to the knowledge of RBI those companies were required to be registered with the RBI, but have not done so and have accepted deposits as defined under RBI Act, such action as is deemed necessary under the provisions of the RBI Act will be taken.

59. The NBFCs have been made liable to pay interest on the overdue matured deposits if the company has not been able to repay the matured public deposits on receipt of a claim from the depositor. Please elaborate the provisions.

As per Reserve Bank's Directions, overdue interest is payable to the depositors in case the company has delayed the repayment of matured deposits, and such interest is payable from the date of receipt of such claim by the company or the date of maturity of the deposit whichever is later, till the date of actual payment. If the depositor has lodged his claim after the date of maturity, the company would be liable to pay interest for the period from the date of claim till the date of repayment. For the period between the date of maturity and the date of claim it is the discretion of the company to pay interest. In cases where NBFCs are required to freeze the term deposits of customer based on the orders of the enforcement authorities or the deposit receipts are seized by the enforcement authorities, they shall follow the procedure as given below:

request letter may be obtained from the customer on maturity. While obtaining the request letter from the depositor for renewal, NBFCs should also advise him to indicate the term for which the deposit is to be renewed. In case the depositor does not exercise his option of choosing the term for renewal, NBFCs may renew the same for a term equal to the original term.

No new receipt is required to be issued. However, suitable note may be made regarding renewal in the deposit ledger.

Renewal of deposit may be advised by registered letter / speed post / courier service to the concerned Government department under advice to the depositor. In the advice to the depositor, the rate of interest at which the deposit is renewed should also be mentioned.

If overdue period does not exceed 14 days on the date of receipt of the request letter, renewal may be done from the date of maturity. If it exceeds 14 days, NBFCs may pay interest for the overdue period as per the policy adopted by them, and keep it in a separate interest free sub-account which should be released when the original fixed deposit is released.

However the final repayment of the principal and the interest so accrued should be done only after the clearance regarding the same is obtained by the NBFCs from the respective Government agencies.

60. Can a company pre-pay its public deposits?

An NBFC accepts deposits under a mutual contract with its depositors. In case a depositor requests for pre-mature payment, Reserve Bank of India has prescribed Regulations for such an eventuality in the Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998 wherein it is specified that NBFCs cannot grant any loan against a public deposit or make premature repayment of a public deposit within a period of three months (lock-in period) from the date of its acceptance. However, in the event of death of a depositor, the company may, even within the lock-in period, repay the deposit at the request of the joint holders with survivor clause / nominee / legal heir only against submission of relevant proof, to the satisfaction of the company

An NBFC, (which is not a problem company) subject to above provisions, may permit after the lock-in period, premature repayment of a public deposit at its sole discretion, at the rate of interest prescribed by the Bank

A problem NBFC is prohibited from making premature repayment of any deposits or granting any loan against public deposit/deposits, as the case may be. The prohibition shall not, however, apply in the case of death of depositor or repayment of tiny deposits i.e. up to ₹ 10000/- subject to lock in period of 3 months in the latter case.

61. What is the liquid assets requirement for the deposit taking companies? Where are these assets kept? Do depositors have any claims on them?

In terms of Section 45-IB of the RBI Act, 1934, the minimum level of liquid assets to be maintained by NBFCs is 15 per cent of public deposits outstanding as on the last working day of the second preceding quarter. Of the 15%, NBFCs are required to invest not less than ten percent in approved securities and the remaining 5% can be in unencumbered term deposits with any scheduled commercial bank. Thus, the liquid assets may consist of Government securities, Government guaranteed bonds and term deposits with any scheduled commercial bank.

The investment in Government securities should be in dematerialised form which can be maintained in Constituents' Subsidiary General Ledger (CSGL) Account with a scheduled commercial bank (SCB) / Stock Holding Corporation of India Limited (SHCIL). In case of Government guaranteed bonds the same may be kept in dematerialised form with SCB/SHCIL or in a dematerialised account with depositories [National Securities Depository Ltd. (NSDL)/Central Depository Services (India) Ltd. (CDSL)] through a depository participant registered with Securities & Exchange Board of India (SEBI). However in case there are Government bonds which are in physical form the same may be kept in safe custody of SCB/SHCIL.

NBFCs have been directed to maintain the mandated liquid asset securities in a dematerialised form with the entities stated above at a place where the registered office of the company is situated. However, if an NBFC intends to entrust the securities at a place other than the place at which its registered office is located, it may do so after obtaining the permission of RBI in writing. It may be noted that liquid assets in approved securities will have to be maintained in dematerialised form only. The liquid assets maintained as above are to be utilised for payment of claims of depositors. However, deposits being unsecured in nature, depositors do not have direct claim on liquid assets.

62. What does RBI do to protect the interest of NBFC depositors?

RBI has issued detailed regulations on deposit acceptance, including the quantum of deposits that can be collected, mandatory credit rating, mandatory maintenance of liquid assets for repayment to depositors, manner of maintenance of its deposit books, prudential regulations including maintenance of adequate capital, limitations on exposures, and inspection of the NBFCs, besides others, to ensure that the NBFCs function on sound lines. If the Bank observes through its inspection or audit of any NBFC or through complaints or through market

intelligence, that a certain NBFC is not complying with RBI directions, it may prohibit the NBFC from accepting further deposits and prohibit it from selling its assets. In addition, if the depositor has complained to the Company Law Board (CLB) which has ordered repayment and the NBFC has not complied with the CLB order, RBI can initiate prosecution of the NBFC, including criminal action and winding up of the company.

More importantly, RBI initiates prompt action, including imposing penalties and taking legal action against companies which are found to be violating RBI's instructions/norms on basis of Market Intelligence reports, complaints, exception reports from statutory auditors of the companies, information received through SLCC meetings, etc. The Reserve Bank immediately shares such information with all the financial sector regulators and enforcement agencies in the State Level Coordination Committee Meetings.

As a premier public policy institution, as part of its public policy measure, the Reserve Bank of India has been in the forefront in taking several initiatives to create awareness among the general public on the need to be careful while investing their hard earned money. The initiatives include issue of cautionary notices in print media and distribution of informative and educative brochures/pamphlets and close interaction with the public during awareness/outreach programs, Townhall events, participation in State Government sponsored trade fairs and exhibitions. At times, it even requests newspapers with large circulation (English and vernacular) to desist from accepting advertisements from unincorporated entities seeking deposits.

63. Who rates deposit taking NBFCs for acceptance of deposit?

NBFCs may get itself rated by any of the six rating agencies namely, CRISIL, CARE, ICRA, FITCH Ratings India Pvt. Ltd, Brickwork Ratings India Pvt. Ltd. and SMERA.

64. What are the symbols of minimum investment grade rating of different companies? When a company's rating is downgraded, does it have to bring down its level of public deposits immediately or over a period of time?

The symbols of minimum investment grade rating of the Credit rating agencies are:

Name of rating agencies	Nomenclature of minimum investment grade credit rating (MIGR)
CRISIL	FA- (FA MINUS)
ICRA	MA- (MA MINUS)
CARE	CARE BBB (FD)
FITCH Ratings India Pvt. Ltd. SMERA	tA-(ind)(FD) SMERA A
Brickwork Ratings India Pvt. Ltd.	BWR FBBB

It may be added that A- is not equivalent to A, AA- is not equivalent to AA and AAA- is not equivalent to AAA.

However, if rating of an NBFC is downgraded to below minimum investment grade rating, it has to stop accepting public deposits, report the position within fifteen working days to the RBI and bring within three years from the date of such downgrading of credit rating, the amount of public deposit to nil. With the introduction of revised regulatory framework in November 2014 deposit taking NBFCs have to mandatorily get investment grade credit rating for being eligible to accept public deposits.

65. What is the purpose of enacting Protection of Interest of Depositors in Financial Establishments Act by the State Governments?

The purpose of enacting this law is to protect the interests of the depositors. The provisions of RBI Act are directed towards enabling RBI to issue prudential regulations that make the financial entities function on sound lines. RBI is a civil body and the RBI act is a civil Act. Both do not have specific provisions to effect recovery by attachment and sale of assets of the defaulting companies, entities or their officials. It is the State government machinery which can effectively do this. The Protection of Interest of Depositors in Financial Establishments Acts, confers adequate powers on the State Governments to attach and sell assets of the defaulting companies, entities and their officials.

66. Will the passage of the Protection of Interest of Depositors in Financial Establishments by the State Governments help in nailing unincorporated entities and companies from unauthorisedly accepting deposits?

Yes, to a large extent. The Act makes offences, such as, unauthorized acceptance of deposits by any entity, firm or company a cognizable offence, that is entities that are indulging in unauthorized deposit acceptance or unlawful financial activities can be immediately imprisoned and prosecuted. Under the Act, the State Governments have been given vast powers to attach the property of such entities, dispose them off under the orders of special courts and distribute the proceeds to the depositors. The widespread State Government / State Police machinery is best positioned to take quick action against the culprits. The Reserve Bank has, therefore, been urging all the State Governments to pass the legislation on Protection of Interest of Depositors in Financial Establishment Act.

67. Still there are cases of unscrupulous financial entities cheating public time and again. How does RBI plan to strengthen its surveillance on unauthorized acceptance of deposits/unauthorized conduct of NBFIs business by companies?

The Reserve Bank is strengthening its market intelligence function in various Regional Offices and is constantly examining the financials of companies, references for which have been received through market intelligence or complaints to the Reserve Bank. In this, context, members of public can contribute a great deal by being vigilant and lodging a complaint immediately if they come across any financial entity that contravenes the RBI Act. For example,

if they are accepting deposits unauthorisedly and/conducting NBFC activities without obtaining due permission from the RBI. More importantly, these entities will not be able to function if members of public start investing wisely. Members of the public must know that high returns on investments will also have high risks. And there can be no assured return for speculative activities. Before investing the public must ensure that the entity they are investing in is a regulated entity with one of the financial sector regulators.

F. Collective Investment Schemes (CIS) and Chit Funds

68. Are Collective Investment Schemes (CIS) regulated by the Reserve Bank of India?

No. CIS are schemes where money is exchanged for units, be it time share in resorts, profit from sale of wood or profits from the developed commercial plots and buildings and so on. Collective Investment Schemes (CIS) do not fall under the regulatory purview of the Reserve Bank.

69. Which is the authority that regulates Collective Investment Schemes (CIS)?

SEBI is the regulator of CIS. Information on such schemes and grievances against the promoters may be immediately forwarded to SEBI as well as to the EOW/Police Department of the State Government.

70. Is the conducting of Chit Fund business permissible under law?

The chit funds are governed by Chit Funds Act, 1982 which is a Central Act administered by state governments. Those chit funds which are registered under this Act can legally carry on chit fund business.

71. If Chit Fund companies are financial entities, why are they not regulated by RBI?

Chit Fund companies are regulated under the Chit Fund Act, 1982, which is a Central Act, and is implemented by the State Governments. RBI has prohibited chit fund companies from accepting deposits from the public in 2009. In case any Chit Fund is accepting public deposits, RBI can prosecute such chit funds.

G. Money Circulation/Multi-Level Marketing (MLM)/ Ponzi Schemes/ Unincorporated Bodies (UIBs)

72. There are some companies like Multi-Level Marketing companies, Direct Selling Companies, Online Selling Companies. Do they come under the purview of RBI?

No, Multi-Level Marketing companies, Direct Selling Companies, Online Selling Companies do not fall under the purview of RBI. Activities of these companies fall under the

regulatory/administrative domain of respective state government. The list of regulators and the entities regulated by them are as provided in [Annex I](#).

73. What are money circulation/Ponzi/multi-level marketing schemes?

Money circulation, multi level marketing / Chain Marketing or Ponzi schemes are schemes promising easy or quick money upon enrollment of members. Income under Multi level marketing or pyramid structured schemes do not come from the sale of products they offer as much as from enrolling more and more members from whom hefty subscription fees are taken. It is incumbent upon all members to enroll more members, as a portion of the subscription amounts so collected are distributed among the members at the top of the pyramid. Any break in the chain leads to the collapse of the pyramid, and the members lower in the pyramid are the ones that are affected the most. Ponzi schemes are those schemes that collect money from the public on promises of high returns. As there is no asset creation, money collected from one depositor is paid as returns to the other. Since there is no other activity generating returns, the scheme becomes unviable and impossible for the people running the scheme to meet the promised return or even return the principal amounts collected. The scheme inevitably fails and the perpetrators disappear with the money.

74. Is acceptance of money under Money Circulation/Multi-level Marketing/Pyramid structured schemes allowed? Does RBI regulates such schemes?

No. Acceptance of money under Money Circulation/Multi-level Marketing/Pyramid structured schemes and Ponzi schemes is not allowed as acceptance of money under those schemes is a cognizable offence under the Prize Chit and Money Circulation (Banning) Act 1978 and are hence banned. The Reserve Bank has no role in implementation of this Act, except advising and assisting the Central Government in framing the Rules under this Act.

75. Then who regulates entities that run such schemes?

Money Circulation/Multi-level Marketing /Pyramid structured schemes are an offence under the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. The Act prohibits any person or individual to promote or conduct any prize chit or money circulation scheme or enrol as member to its schemes or anyone to participate in it by either receiving or remitting any money in pursuance of such chit or scheme. Contravention of the provisions of this Act, is monitored and dealt with by the State Governments.

76. What if someone operates such a scheme?

Any information/grievance relating to such schemes should be given to the police / Economic Offence Wing (EOW) of the concerned State Government or the Ministry of Corporate Affairs. If brought to RBI notice – we will inform the same to the concerned State Government authorities.

77. What are Unincorporated Bodies (UIBs)? Has RBI any role to play in curbing illegal deposit acceptance activities of UIBs? Who has the power to take action against Unincorporated Bodies (UIBs) accepting deposits?

Unincorporated bodies (UIBs) include an individual, a firm or an unincorporated association of individuals. In terms of provision of section 45S of RBI act, these entities are prohibited from accepting any deposit. The Act makes acceptance of deposits by such UIBs punishable with imprisonment or fine or both. The State government has to play a proactive role in arresting the illegal activities of such entities to protect interests of depositors/investors.

UIBs do not come under the regulatory domain of RBI. Whenever RBI receives any complaints against UIBs, it immediately forwards the same to the state government police agencies (Economic Offences Wing (EOW)). The complainants are advised to lodge the complaints directly with the State government police authorities (EOW) so that appropriate action against the culprits is taken immediately and the process is hastened.

As per Section 45T of RBI Act, both the RBI and State Governments have been given concurrent powers. Nonetheless, in order to take immediate action against the offender, the information should immediately be passed on to the State Police or the Economic Offences Wing of the concerned State who can take prompt and appropriate action. Since the State Government machinery is widespread and the State Government is also empowered to take action under the provisions of RBI Act, 1934, any information on such entities accepting deposits may be provided immediately to the respective State Government's Police Department/EOW.

Many of the State Governments have enacted the State Protection of Interests of Depositors in Financial Establishments Act, which empowers the State Government to take appropriate and timely action.

RBI on its part has taken various steps to curb activities of UIBs which includes spreading awareness through advertisements in leading newspapers to sensitise public, organize various investors awareness programmes in various districts of the country, keeps close liaison with the law enforcing agencies (Economic Offences Wing).

78. There are some entities (not companies) which carry on activities like that of NBFCs. Are they allowed to take deposits? Who regulates them?

Any person who is an individual or a firm or unincorporated association of individuals cannot accept deposits except by way of loan from relatives, if his/its business wholly or partly includes loan, investment, hire-purchase or leasing activity or principal business is that of receiving of deposits under any scheme or arrangement or in any manner or lending in any manner.

79. What precautions have to be taken by the public to forewarn themselves about the likelihood of losing money in schemes that offer high rates of interest?

Before investing in schemes that promise high rates of return investors must ensure that the entity offering such returns is registered with one of the financial sector regulators and is

authorized to accept funds, whether in the form of deposits or otherwise. Investors must generally be circumspect if the interest rates or rates of return on investments offered are high. Unless the entity accepting funds is able to earn more than what it promises, the entity will not be able to repay the investor as promised. For earning higher returns, the entity will have to take higher risks on the investments it makes. Higher the risk, the more speculative are its investments on which there can be no assured return. As such, the public should forewarn themselves that the likelihood of losing money in schemes that offer high rates of interest are more.

80. Who can the Depositor/Investor turn to in case of grievances?

The two Charts given at [Annex I](#) and [II](#) depict the activities and the regulators overseeing the same. Complaints may hence be addressed to the concerned regulator. If the activity is a banned activity, the aggrieved person can approach the State Police/Economic Offences Wing of the State Police and lodge a suitable complaint.

81. What constitutes Commercial Real Estate exposure?

An exposure to be classified as CRE, the essential feature would be that the funding will result in the creation/ acquisition of real estate (such as, office buildings to let, retail space, multifamily residential buildings, industrial or warehouse space, and hotels) where the prospects for repayment would depend primarily on the cash flows generated by the asset. Additionally, the prospect of recovery in the event of default would also depend primarily on the cash flows generated from such funded asset which is taken as security, as would generally be the case. The primary source of cash flow (i.e. more than 50% of cash flows) for repayment would generally be lease or rental payments or the sale of the assets as also for recovery in the event of default where such asset is taken as security.

These guidelines will also be applicable to certain cases where the exposure may not be directly linked to the creation or acquisition of CRE but the repayment would come from the cash flows generated by CRE. For example, exposures taken against existing commercial real estate whose prospects of repayments primarily depend on rental/ sale proceeds of the real estate should be classified as CRE. Other such cases may include: extension of guarantees on behalf of companies engaged in commercial real estate activities, exposures on account of derivative transactions undertaken with real estate companies, corporate loans extended to real estate companies and investment made in the equity and debt instruments of real estate companies.

Q 82. In terms of para 7.1 of the revised regulatory framework issued vide CC No. 002 dated November 10, 2014, total assets of NBFCs in a group including deposit taking NBFCs, if any, will be aggregated to determine if such consolidation falls within the asset sizes of the two categories viz., NBFCs-ND (those with assets of less than ₹ 500 crore) and NBFCs-ND-SI (those with assets of ₹ 500 crore and above). Regulations as applicable to the two categories will be applicable to each of the NBFC-ND within the group. Will this aggregation of assets apply to exempted category of CICs in the group?

No, the group requires to aggregate total assets of only those NBFCs which have been granted Certificate of Registration by the Bank. However, it must be ensured that the capital of the exempted category of CIC has not come, directly or indirectly, from an entity/ group company which has accessed public funds.

83. Whether LTV of 50% will also apply to lending against units of mutual funds?

Loans against units of mutual funds (except units of exclusively debt oriented mutual funds) would attract LTV requirements as are applicable to loans against shares. Further, the LTV requirement for loans/ advances against units of exclusively debt-oriented mutual funds may be decided by individual NBFCs in accordance with their loan policy.

ANNEX-I

CHART - I

Overview of Regulators of Non-Banking Companies



